

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

KEITH MARTIN MOLINEAUX, JR.,

Plaintiff,

v.

Civil Action No.: 2:10-00940

WEST VIRGINIA STATE POLICE,

Defendant.

O R D E R

This action was previously referred to Mary E. Stanley, United States Magistrate Judge, who has submitted her Proposed Findings and Recommendation ("PF&R") pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B). The magistrate judge recommends that the court dismiss this action as moot and deny as moot plaintiff's application to proceed without prepayment of fees and costs.

On October 8, 2010, plaintiff objected to the PF&R, contending that he had yet to receive from defendant a copy of a lab report concerning test results on evidence collected in his criminal case. On October 18, 2010, the court received in chambers a check from plaintiff in the amount of \$40, made payable to defendant. Plaintiff asserted that the \$40 check

covered the cost of the lab report he sought. By order dated November 10, 2010, the court directed defendant to furnish the lab report or to show cause why plaintiff had not been provided the report.

On November 14, 2010, the court received in chambers via hand delivery the lab report sought by plaintiff and thereafter directed that the Clerk forward the report to plaintiff. On November 24, 2010, the court received in chambers a letter from plaintiff, dated November 22, 2010. Plaintiff's November 22 letter is hereby ORDERED filed.

In the November 22 letter, plaintiff acknowledges that he received the lab report. He further requests that the court "send this report back [to] D.R. Francis to be sign[ed] and mailed back to [the court]." Inasmuch as plaintiff has identified no case law or statute supporting his request for additional relief, it is ORDERED that plaintiff's letter-form request that the court forward the lab report for additional signatures be, and it hereby is, denied.

Finally, on November 29, 2010, defendant informally provided the court with instructions that will result in the return of the \$40 check to the custodian of the WARDEN'S INMATE TRUSTEE ACCOUNT. The Clerk is directed to send the check to

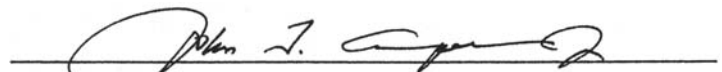
Abbey Hart, custodian for the account, at the following address:  
1 Mountainside Way, Mount Olive, WV 25185.

Inasmuch as plaintiff has acknowledged receipt of the  
lab report underlying his complaint in this matter, it is further  
ORDERED that:

1. The PF&R be, and it hereby is, adopted by the court;
2. Plaintiff's application to proceed without prepayment  
of fees and costs be, and it hereby is, denied as moot;  
and
3. This action be, and it hereby is, dismissed as moot.

The Clerk is directed to forward copies of this written  
order to the pro se plaintiff, defendant West Virginia State  
Police, and the United States Magistrate Judge.

DATED: November 30, 2010

  
John T. Copenhagen, Jr.  
United States District Judge